

INITIAL STATEMENT OF REASONS

2805. "Developer" Defined.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER
CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO
ADDRESS

The Vacation Ownership and Time-share Act of 2004
(Chapter 697 of the Statutes of 2004) enacted a new
statutory approach to the qualification and registration of
time-share sales programs in California. The Department
adopted regulations in 2005 to implement the act. The
Department inadvertently defined a developer as one who has,
among other things, an interest in 10 or more units rather
than 11 as implied in the statute. This proposed amendment
would correct that error.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to substitute
the number 11 in place of 10 as the minimum number of
interests in time-share units necessary to be considered a
developer.

NECESSITY

The amendment is necessary to conform the regulations
to the underlying statutes.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical,
theoretical, or empirical studies, reports or documents in
proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has
considered would be more effective in carrying out the
purpose of the proposed regulation change or would be as
effective and less burdensome to affected private persons
than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

2809.3. Properly Completed Application - Nonspecific Time-Share Interest Multi-Site Time-Share Plan.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

The Vacation Ownership and Time-share Act of 2004 (Chapter 697 of the Statutes of 2004) enacted a new statutory approach to the qualification and registration of time-share sales programs in California. The Department adopted regulations in 2005 to implement the act. The Department inadvertently failed to include as part of the application for a nonspecific time-share interest multi-site time-share plan a draft public report. A draft public report is required of all single-site time-share plans. This proposed amendment would correct that error.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to include the submission of a draft public report in the items required in an application for a nonspecific time-share interest multi-site time-share plan.

NECESSITY

The amendment is necessary to correct an oversight in drafting the 2005 regulations for nonspecific time-share interest multi-site time-share plans.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD
LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

2840. Approved Borrower Disclosure Statement.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER
CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO
ADDRESS

Section 10240 and 10241 of the Business and Professions Code provide for the disclosure of specified information by real estate brokers to borrowers who are obtaining financing. Sections 2840 and 2840.1 of the Regulations were adopted to provide forms that would comply with the requirements of the statutes and would be in a format that meets the needs of borrowers, the Department, and the industry. The forms were extensive because they were designed to comply with federal as well as state requirements. This flexibility came with the cost of having to modify the forms when either federal or state laws changed. Due to the frequency of changes and the time required to amend a regulation, the forms could not be kept up-to-date easily. The proposed amendment would eliminate the regulations as forms and allow the Department and Commissioner to respond more quickly to changes in the underlying statutes.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to reduce the time delay in updating two crucial forms by removing the forms from the regulations.

NECESSITY

The amendment is necessary to allow the Department to update two crucial forms in a timely manner.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR
DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies or reports in proposing

the adoption of this regulation. He did rely on Forms RE 882 and RE 883 which are included herewith.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

2840.1. Alternative Approved Borrower Disclosure Statement.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

Section 10240 and 10241 of the Business and Professions Code provide for the disclosure of specified information by real estate brokers to borrowers who are obtaining financing. Sections 2840 and 2840.1 of the Regulations were adopted to provide forms that would comply with the requirements of the statutes and would be in a format that meets the needs of borrowers, the Department, and the industry. The forms were extensive because they were designed to comply with federal as well as state requirements. This flexibility came with the cost of having to modify the forms when either federal or state laws changed. Due to the frequency of changes and the time required to amend a regulation, the forms could not be kept up-to-date easily. The Department proposes repeal of the regulation because the regulation/form will in effect be included in and addressed by amended Section 2840.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to eliminate a regulation that has been made obsolete by the amendment of Section 2840.

NECESSITY

The amendment is necessary to eliminate an obsolete regulation.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

2849.01. Annual Report Format.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

Business and Professions Code Section 10232.2(c) requires reporting threshold mortgage brokers to report certain aspects of their business activities to the Department on an annual basis. Regulation 2849.01 provides the Mortgage Loan/Trust Deed Annual Report format to real estate brokers for this purpose. Section 4979 of the Financial Code requires licensees who originate covered loans to provide to the licensing agency documentation regarding these loans. The Department proposes to amend the regulation to require the inclusion of information on loans arranged or made by these brokers that are covered under Financial Code Section 4970.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to consolidate a disclosure required of real estate brokers by the Financial

Code into a form that the brokers are already required to use.

NECESSITY

The amendment is necessary to reduce costs and improve efficiency by consolidating disclosures into one form.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

3005. Definitions.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. That was the year that Section 3005 was first adopted. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. The requirement for closed-book examinations with a passing grade of 70% or more was removed. At that time Section 3007.2 (Material Change in Course Offerings) was also repealed. That repeal made subsection (d) of Section 3005 obsolete. The explosion of real estate licensees - now over 500,000 in the state - makes it necessary to change focus again. The Department is therefore proposing to (1) re-adopt Section 3007.2; (2) amend subsections (c) and (e)

of Section 3005 to make them consistent with the amendment of Section 3006 requiring final examinations in all continuing education offerings; and (3) amend subsection (d) of Section 3005 to address the various new ways of presenting information such as the Internet.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed change is to amend subsections (c) and (e) of the regulation to make them consistent with the amendment of Section 3006 requiring final examinations in all continuing education offerings and to include a change in method of presentation as a material change in a continuing education offering.

NECESSITY

The amendment is necessary to assure that the offerings of continuing education providers are appropriate for the medium being used and to insure the integrity of all continuing education offerings.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

3006. Criteria for Approval of Offerings.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. The requirement for closed-book examinations with a passing grade of 70% or more was also removed. The explosion of real estate licensees - now over 500,000 in the state - makes it necessary to change focus again. Technology has changed the way continuing education courses are presented and the speed with which information is disseminated and manipulated. Rules must be established to keep pace with technology to insure the integrity of the continuing education process. As a result, the Department is proposing to amend subsection (d) of Section 3006 to require a final examination in all continuing education courses.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed regulation is to require final examinations in all continuing education courses to help assure the integrity of the continuing education offerings.

NECESSITY

The regulation is necessary to assure the integrity of all continuing education offerings.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are some additional costs associated with this action. However, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these

changes were identified that would lessen the impact upon businesses.

3007.05. Forms of Identification Accepted.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER
CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO
ADDRESS

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. At that time Section 3007.3(1) was repealed. The language proposed in this regulation is essentially the same as that repealed in 1996. The newly proposed language would formalize the types of identification acceptable to assure the Department that licensees are the individuals taking the continuing education courses and more importantly taking the examinations and passing the tests. These are the same forms of identification allowed under the previous regulation.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this proposed regulation is to specify the form of identification required by the Department to assure the integrity of the continuing education offerings.

NECESSITY

The regulation is necessary to assure the integrity of the continuing education offerings.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR
DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE
AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD
LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

3007.2. Material Change in Course Offering.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. At that time Section 3007.2 was repealed. The language proposed in this regulation is essentially the same as that repealed in 1996. The newly proposed language is the same as that in effect in 1996 when the regulation was repealed. This section would provide that a material change to an approved course offering must be submitted to the Department for "consideration and approval" prior to its use and that a new application and fee must also be included.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this new regulation is to assure that course providers are required to obtain approval of material changes to an approved course before the changes are implemented.

NECESSITY

The amendment is necessary to assure that course offerings continue to meet acceptable standards of quality.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are additional costs associated with this action. However, the proposed regulation change would not have a significant adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

3007.3. Final Examination Rules.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. During this time the description of Section 3007.3 was changed from Final Examination Rules to its present title of Final Examination Rules for Correspondence Offerings. The explosion of real estate licensees - now over 500,000 in the state - makes it necessary to change focus again. The Internet is a new medium that course providers are now using to provide their offerings to licensees. Rules must be established for that medium as well to insure the integrity of the continuing education process. As a result, the Department is proposing to amend the regulation to (1) apply to all continuing education offerings with the exception that examinees for correspondence continuing education offerings are limited to completion of final examinations for a maximum of twelve credit hours in any one 24 hour period; (2) define that 70% is the passing score for an examination; and (3) allow time involved in the final examination to be treated as "clock-hours" for course offerings.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the proposed changes is to (1) have the regulation apply to all continuing education offerings with the exception that examinees for correspondence continuing education offerings are limited to completion of final examinations for a maximum of twelve credit hours in any one 24 hour period; (2) define that 70% is the passing score for an examination; and (3) allow time involved in the final examination to be treated as "clock-hours" for course offerings.

NECESSITY

The regulation is necessary to assure the integrity of continuing education offerings.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are no additional costs associated with this action. Therefore, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.

3011.4. Petitions for Equivalency for Attendance at Unapproved Programs.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

This regulation lists the information to be included in a petition for equivalency for attendance at an unapproved continuing education program to obtain credit toward meeting the continuing education requirements for licensees of the Department. At present the regulation only requires a final grade report for the final examination in correspondence courses. The Department proposes to amend the regulation to require such a grade report for all continuing education courses to maintain consistency with the proposed amendment to Section 3006(d) requiring final examinations in all continuing education offerings.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the proposed change is to amend the regulation to require such a grade report for all continuing education courses to maintain consistency with the proposed amendment to Section 3006(d) requiring final examinations in all continuing education offerings.

NECESSITY

The regulation is necessary to assure the integrity of the continuing education offerings and consistency with other proposed amendments.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there are some additional costs associated with this action. However, the proposed regulation change would not have an adverse economic impact on licensees and no alternatives to these changes were identified that would lessen the impact upon businesses.